

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT  
AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE  
RULES. See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24.

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OCT -9 2008

COURT OF APPEALS  
DIVISION TWO

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

THE STATE OF ARIZONA,	)	
	)	
Respondent,	)	2 CA-CR 2008-0043-PR
	)	DEPARTMENT B
v.	)	
	)	<u>MEMORANDUM DECISION</u>
	)	Not for Publication
ROBERT EVANS-GOODIN,	)	Rule 111, Rules of
	)	the Supreme Court
Petitioner.	)	
	)	

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PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-20061045

Honorable Howard Fell, Judge Pro Tempore

REVIEW GRANTED; RELIEF DENIED

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Barbara LaWall, Pima County Attorney  
By Jacob R. Lines

Tucson  
Attorneys for Respondent

Barton & Storts, P.C.  
By Brick P. Storts, III

Tucson  
Attorneys for Petitioner

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E S P I N O S A, Judge.

¶1 Pursuant to a plea agreement, petitioner Robert Evans-Goodin was convicted of aggravated assault with a deadly weapon or dangerous instrument. In his petition for post-conviction relief filed pursuant to Rule 32, Ariz. R. Crim. P., Evans-Goodin contended there was an insufficient factual basis for the plea. The trial court denied relief, and this petition for review followed.

¶2 At the change-of-plea hearing, Evans-Goodin admitted he and his companion Babcock had been in the home where the victim was staying on the night the victim was murdered. He also admitted he had accompanied Babcock to find the victim to urge him to go home, and his purpose in being there was to “back [Babcock] up” in case “it got physical.” Upon questioning by the court, Evans-Goodin denied that he had gone with Babcock intending to harm the victim but admitted he had known Babcock had a hammer when they entered the room where the victim was and he had touched the victim to wake him before Babcock hit him in the head with the hammer. Evans-Goodin responded affirmatively when the court asked, “You knew that—or at least you had a good idea that Babcock was at least going to rough him up if not hit him with the hammer?” He further admitted he had awakened the victim so that “he could be spoken to or even abused by Mr. Babcock.” Thereafter, the court found the guilty plea was knowing, voluntary, and intelligent.

¶3 In his petition for post-conviction relief, Evans-Goodin asserted there was an insufficient factual basis for the plea because neither his statements nor the extended record

established that he had either murdered the victim or acted as Babcock's accomplice in the murder. He contended he only admitted having been there "to quell violence in the event it erupted, and that he did not see the hammer until [the victim] was being struck with it." He also asserted the court had realized he had failed to provide a sufficient factual basis for the plea and it had questioned him further to elicit statements that would provide the factual basis.

¶4 In dismissing his petition, the trial court found Evans-Goodin had admitted at the change-of-plea hearing that he had assaulted the victim and that "the extended record" provided additional support for the plea. Evans-Goodin reiterates the same contentions on review as he did below, arguing the record did not establish he had had the requisite intent to commit aggravated assault, *see* A.R.S. §§ 13-1203, 13-1204, and did not show he was culpable as an accomplice, pursuant to A.R.S. § 13-303. Absent an abuse of discretion, we will not disturb the trial court's order. *See State v. Watton*, 164 Ariz. 323, 325, 793 P.2d 80, 82 (1990).

¶5 The trial court correctly identified the claim, cited the relevant authorities, and resolved the issue based on the record before it. The court's ruling is supported by the record and the applicable law. Because no purpose would be served by rehashing the order here, we adopt it. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993).

¶6 As the trial court correctly noted, the extended record, including the grand jury testimony and Evans-Goodin’s statements at the change-of-plea hearing, provided an adequate factual basis for the plea; therefore, the trial court did not err in accepting the guilty plea or in denying post-conviction relief. *See State v. Johnson*, 181 Ariz. 346, 349, 890 P.2d 641, 644 (App. 1995) (trial court may rely on extended record in determining whether factual basis existed for plea). Evans-Goodin answered “yes” when the court asked at the change-of-plea hearing if he had assaulted the victim. To the extent he made other statements suggesting he had not intended to assault the victim, the court properly continued to question him and elicited sufficient admissions to establish an adequate factual basis for the plea. Additionally, evidence presented to the grand jury established Evans-Goodin and his codefendants had gone to find the victim to “rough [him] up.”

¶7 We grant the petition for review but finding no abuse of the trial court’s discretion, we likewise deny relief.

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PHILIP G. ESPINOSA, Judge

CONCURRING:

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PETER J. ECKERSTROM, Presiding Judge

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GARYE L. VÁSQUEZ, Judge